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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,741	12/02/2003	Lynne Tauchen	JET-P001	3073
27268	7590	05/31/2006	EXAMINER	
BAKER & DANIELS LLP 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204			BUI, LUAN KIM	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/725,741	TAUCHEN, LYNN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Luan K. Bui	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 7,8 and 14 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 51 is/are allowed.
- 6) ☒ Claim(s) 1-6,9-13 and 15-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/2/03 &amp; 3/29/04</u> . | 6) <input type="checkbox"/> Other: _____  |

1. Applicant's election of Group I, Figures 1-10 and 22 and claims 1-6, 9-13 and 15-51 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 7, 8 and 14 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 38-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 38, the phrase “the retaining strap is configured to pass through an opening proximate the throat of the racquet ... “ defines the bag in reference to the racquet which is undefined and has not been positively claimed rendering the claims vague and indefinite because it is not clear what structural limitations applicant intends to encompass with such language.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3728

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 44, 48 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Hjelle (5,005,679). Hjelle discloses a bag/tennis bag (1) comprising a main compartment/accessory compartment (A), a side compartment/racquet compartment (B) positioned in spaced relation to the accessory compartment and a cooler compartment (10, 11) coupled to one of the accessory compartment and the racquet compartment. The cooler compartment including an insulated lining (13), an opening (14), a flap (21) configured to cover the opening and a closing member (20a, 20b).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 45-47 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hjelle (5,005,679) in view of The Official Notice and Garcia, III et al. (6,619,447; hereinafter Garcia'447). Hjelle discloses the bag/tennis bag (1) as above having most of the claimed limitations including a front wall, a rear wall positioned in spaced relation to the front wall and defining a longitudinal center axis, opposing first and second side walls connecting the front wall and the rear wall except for the first and second side walls being meeting at an apex.

The Official Notice is taken of the old and conventional practice of providing a backpack with a first and second side walls connecting a front and rear walls and meeting at an apex. Garcia'447

Art Unit: 3728

shows a bag (12) comprising a front wall (18), a rear wall (20) positioned in spaced relation to the front wall and defining a longitudinal center axis, opposing first and second side walls (22, 24) connecting the front wall and the rear wall and meeting at a top which is considered equivalent to an apex as claimed. It would have been obvious to one having ordinary skill in the art in view of The Official Notice and Garcia'447 to modify the bag of Hjelle so the first and second side walls connecting the front wall and the rear wall and meeting at an apex for carrying more items.

8. Claims 1-3, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowen, III (3,963,103) in view of The Official Notice and Fier (5,529,229). Cowen discloses a bag (10, 11) comprising a front wall (27), a rear wall (31), opposing first and second side walls (22, 24), a bottom wall (23), an accessory compartment (10) having an upper center portion, a first lower corner portion and a second lower corner portion, an accessory compartment closing member (28, 29) configured to close an opening to the accessory compartment, a racquet panel (a front wall of the racquet compartment 11) coupled to the front wall, a racquet compartment (11), a racquet compartment closing member (20, 27), a carrying strap (34) having an upper end and a lower end, a releasable fastening member (35) coupled to the lower end of the strap, a first mating fastening member (39) coupled proximate the first lower corner portion of the accessory compartment and a second mating fastening member (39) coupled proximate the second lower corner portion of the accessory compartment. Cowen also discloses the other claimed limitations except for the first and second side walls meeting at an apex and the upper end of the strap being coupled to the upper center portion.

Art Unit: 3728

The Official Notice is taken of the old and conventional practice of providing a backpack with a first and second side walls connecting a front and rear walls and meeting at an apex. Fier shows a backpack (10) comprising a carrying strap (12) having an upper end coupled to an upper center portion of the backpack and a lower end (14B) coupled to either a first mating fastening member (14A) or a second mating fastening member (14A) disposed at a corner portion of the bag. It would have been obvious to one having ordinary skill in the art in view of The Official Notice and Fier to modify the bag of Cowen so the first and second side walls meeting at an apex as taught by The Official Notice for carrying an additional items and the upper end of the strap coupled to the upper center portion of the bag to facilitate carrying the bag.

9. Claims 4-6, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Romano (6,434,032). The bag of Cowen as modified further fails to show a center partition being received within the racquet compartment to define a first racquet portion and a second racquet pocket.

Romano shows a bag (10) comprising a center partition (28) received within a compartment to define a first pocket for holding items (40, 44, 59) and a second pocket (36). It would have been obvious to one having ordinary skill in the art in view of Romano to modify the bag of Cowen as modified so the racquet compartment includes a center partition to define a first pocket and a second pocket for separating items from the first and second pockets. As to claim 11, Romano shows an additional compartment disposed on the side of the bag which is considered equivalent to a cooler compartment as claimed.

Art Unit: 3728

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Racca (6,182,878). The bag of Cowen as modified further fails to show a phone holder being releasably coupled to the strap. Racca teaches a bag (50) having a strap (42) and a phone holder (10) releasably coupled to the strap (Figure 5). It would have been obvious to one having ordinary skill in the art in view of Racca to modify the bag of Cowen as modified so the bag includes a phone holder releasably coupled to the strap to facilitate carrying a phone.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cowen (3,963,103) in view of Garcia, III et al. (6,619,447; hereinafter Garcia'447). Cowen discloses the bag as above having all the limitations of the claim including the racquet panel comprises an arcuate top edge. However, Cowen fails to show racquet panel comprises an arcuate first side edge, an arcuate second side edge and an arcuate lower edge and the racquet compartment comprises a generally truncated egg-shaped cross-section.

Garcia'447 shows a bag (12) comprising a panel/racquet panel (32) having an arcuate first side edge, an arcuate second side edge and a lower edge. It would have been obvious to one having ordinary skill in the art in view of Garcia'447 to modify the racquet panel of Cowen so the racquet panel comprises an arcuate first side edge, an arcuate second side edge and an arcuate lower edge similar to the arcuate top edge and the racquet compartment comprises a generally truncated egg-shaped cross-section because such selection of the specific shape for the racquet compartment such as the shape as claimed would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well and inasmuch as applicant's

Art Unit: 3728

specification does not state that using these specific shape as claimed solves any particular problem or yields any unexpected results.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 15 above, and further in view of Fier (5,529,229). The bag of Cowen further fails to show the upper end of the strap being coupled to the upper center portion.

Fier shows a backpack (10) comprising a carrying strap (12) having an upper end coupled to an upper center portion of the backpack and a lower end (14B) coupled to either a first mating fastening member (14A) or a second mating fastening member (14A) disposed at a corner portion of the bag. It would have been obvious to one having ordinary skill in the art in view of Fier to modify the bag of Cowen as modified so the upper end of the strap coupled to the upper center portion of the bag to facilitate carrying the bag.

13. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 15 above, and further in view of Romano (6,434,032). The bag of Cowen as modified further fails to show a center partition being received within the racquet compartment to define a first racquet portion and a second racquet pocket.

Romano shows a bag (10) comprising a center partition (28) received within a compartment to define a first pocket for holding items (40, 44, 59) and a second pocket (36). It would have been obvious to one having ordinary skill in the art in view of Romano to modify the bag of Cowen as modified so the racquet compartment includes a center partition to define a first pocket and a second pocket for separating items from the first and second pockets.



14. Claims 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowen (3,963,103) in view of The Official Notice and Clement (5,413,199). Cowen discloses the bag as above having all the limitations of the claims except for the first and second side walls being meeting at an apex and a storage pocket being received within the accessory compartment. The Official Notice is taken of the old and conventional practice of providing a backpack with a first and second side walls connecting a front and rear walls and meeting at an apex. Clement teaches a bag (10) having a storage pocket (67, Figure 5) received within a storage compartment of the bag. It would have been obvious to one having ordinary skill in the art in view of The Official Notice and Clement to modify the bag of Cowen so the first and second side walls meeting at an apex as taught by The Official Notice for carrying an additional items or to conform with the shape of the article and a storage pocket received within the accessory compartment as taught by Clement for holding an additional items.

15. Claim 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowen (3,963,103) in view of Racca (6,182,878). Cowen discloses the bag as above having all the limitations of the claims except for a phone holder being releasably coupled to the strap. Racca teaches a bag (50) having a strap (42) and a phone holder (10) releasably coupled to the strap (Figure 5) by a retaining flap (22) with a releasable securing member (24). It would have been obvious to one having ordinary skill in the art in view of Racca to modify the bag of Cowen so it includes a phone holder releasably coupled to the strap to facilitate carrying a phone.

Art Unit: 3728

16. Claims 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 30 above, and further in view of Neading (5,450,991). The bag of Cowen as modified comprises the phone holder includes the retaining flap with the releasable securing member for securing the phone holder around the strap. However, the phone holder of Cowen as modified fails to show an opposite first and second retaining flaps with a releasable securing members configured to releasably secure the first retaining flap to the second retaining flap in overlapping relation around the strap.

Neading teaches an opposite first and second retaining flaps (22, 24) with a releasable securing members (26) configured to releasably secure the first retaining flap to the second retaining flap in overlapping relation around an article. It would have been obvious to one having ordinary skill in the art in view of Neading to modify the retaining flap of Cowen as modified so the retaining flap comprises an opposite first and second retaining flaps with a releasable securing members configured to releasably secure the first retaining flap to the second retaining flap in overlapping relation around the strap for better securing the phone holder around the strap.

17. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 30 above, and further in view of Paice et al. (6,000,103; hereinafter Paice'103). The phone holder of Cowen as modified further fails to show a clip being coupled to the phone holder and a ring being coupled to the clip and a lanyard being coupled to the ring. Paice'103 shows a holder having a clip (50) coupled to the holder, a ring (52) coupled to the clip and a lanyard (54, 60) coupled to the ring. It would have been obvious to one having ordinary skill in the art in view of Paice'103 to modify the phone holder of Cowen as modified so

Art Unit: 3728

it includes a clip coupled to the phone holder and a ring coupled to the clip and a lanyard coupled to the ring to facilitate holding the phone holder.

18. Claims 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowen (3,963,103) in view of Romano (6,434,032). Cowen discloses the bag as above having all the limitations of the claims except for a retaining flap being extending proximate the top of the racquet compartment intermediate the front wall and the racquet panel, a loop being configured to receive the retaining strap and a releasable securing member.

Romano shows a bag (10) comprising a retaining strap with a loop (16) and a releasable securing member attached to a flap (14) operably coupled to the retaining strap (Figure 1). It would have been obvious to one having ordinary skill in the art in view of Romano to modify the racquet compartment of Cowen so it includes a retaining flap extends proximate the top of the racquet compartment intermediate the front wall and the racquet panel, a loop configured to receive the retaining strap and a releasable securing member for better securing the racquet within the racquet compartment.

#### ***Allowable Subject Matter***

19. Claim 51 is allowed.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

Art Unit: 3728

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb  
May 25, 2006



Luan K. Bui  
Primary Examiner  
Art Unit 3728